

#13

<b>Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.437(b) (Small Entity)</b>			Docket No. 1148/039	
In Re Application Of: <u>Teller et al.</u>				
Serial No. 09/923,181	Filing Date August 6, 2001	Examiner David J. McCrosky	Group Art Unit 3736	
Invention: <b>APPARATUS FOR MONITORING HEALTH, WELLNESS AND FITNESS</b>			<b>RECEIVED</b> NOV 17 2003 OFFICE OF PETITIONS	

Attention: Office of Petitions  
COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, VA 22313-1450

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper response to a notice or action by the Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extension of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee--required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. ☒ A proposed reply to the above-identified Office Action:

☐ is enclosed. ☒ was filed on October 23, 2003

The proposed reply is in the form of: Amendment

2. ☐ The issue fee:

☐ is enclosed. ☐ was paid on \_\_\_\_\_

3. ☐ A small entity declaration:

☐ is enclosed. ☐ was filed on \_\_\_\_\_

4. ☒ The abandoned application was a:

☐ design application. ☒ utility application. ☐ plant application.

5. ☐ A terminal disclaimer (and fee) disclaiming a period equivalent to the period of abandonment is enclosed.

6. ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required:

11/17/2003 AWONDAF1 00000152 09923181

01-FC:2453

665.00 NP

**Petition For Revival Of An Application For Patent Abandoned  
Unintentionally Under 37 CFR 1.137(b) (Small Entity)**

Docket No.  
1148/039

In Re Application Of: Teller et al.

Serial No.  
09/923,181

Filing Date  
August 6, 2001

Examiner  
David J. McCrosky

Group Art Unit  
3736

Invention: APPARATUS FOR MONITORING HEALTH, WELLNESS AND FITNESS

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OFFICE OF PETITIONS

**Calculation and Payment of Fees**

Enclosed are the following fees:

7. ☒ Petition fee under 37 CFR 1.17(m) in the amount of: \$665.00
8. ☐ Fee for amendment in the amount of: \_\_\_\_\_
9. ☒ Fee for extension of time to reply to Office Action in the amount of: \$475.00
10. ☐ Issue fee in the amount of: \_\_\_\_\_
11. ☐ Continuing application filing fee in the amount of: \_\_\_\_\_
12. ☐ Terminal disclaimer fee in the amount of: \_\_\_\_\_
13. ☐ \_\_\_\_\_
- Total fees enclosed: \$1,140.00

The fee of \$1,140 is to be paid as follows:

- ☒ A check in the amount of the fee is enclosed.
- ☐ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account No. 50-0525

**Petition For Revival Of An Application For Patent Abandoned  
Unintentionally Under 37 CFR 1.137(b) (Small Entity)**

Docket No.  
1148/039

In Re Application Of: Teller et al.

Serial No.  
09/923,181

Filing Date  
August 6, 2001

Examiner  
David J. McCrosky

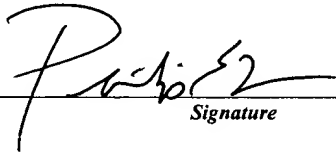
Group Art Unit  
3736

Invention: APPARATUS FOR MONITORING HEALTH, WELLNESS AND FITNESS

RECEIVED  
NOV 17 2003  
OFFICE OF PETITIONS

**Statement**

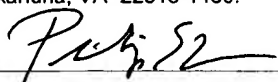
The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. In particular, Attorneys for Applicants inadvertently failed to file a petition and fee for a three-month extension of time along with the Amendment that was filed on October 23, 2003. A petition and fee for a three-month extension of time under 37 CFR 1.136(a) is enclosed herewith. A copy of the Amendment filed on October 23, 2003 is also enclosed herewith.

  
Signature

Dated: November 11, 2003

Philip E. Levy, Esq.  
Reg. No. 40,700  
Metz Lewis LLC  
11 Stanwix Street, 18th Floor  
Pittsburgh, PA 15222  
(412) 918-1100

I certify that this document and fee is being deposited on November 11, 2003 with the U.S. Postal Service as first class mail under 37 C.F.R. 1.8 and is addressed to the Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

  
Signature of Person Mailing Correspondence

Philip E. Levy

Typed or Printed Name of Person Mailing Correspondence

CC:

UNITED STATES PATENT & TRADEMARK OFFICE  
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND											
1 Date of Request: <u>2/11/04</u>		2 Serial/Patent # <u>09/123,181</u>									
3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT							
<input type="checkbox"/>	Filing			\$							
<input type="checkbox"/>	Amendment			\$							
<input checked="" type="checkbox"/>	Extension of Time	16	11/14/03	\$475							
<input type="checkbox"/>	Notice of Appeal/Appeal			\$							
<input type="checkbox"/>	Petition			\$							
<input type="checkbox"/>	Issue			\$							
<input type="checkbox"/>	Cert of Correction/Terminal Disc.			\$							
<input type="checkbox"/>	Maintenance			\$							
<input type="checkbox"/>	Assignment			\$							
<input type="checkbox"/>	Other			\$							
		7 TOTAL AMOUNT OF REFUND		\$475							
		8 TO BE REFUNDED BY:									
10 REASON:		<input type="checkbox"/> Treasury Check									
<input type="checkbox"/>	Overpayment	<input checked="" type="checkbox"/>	Credit Deposit A/C #:								
<input type="checkbox"/>	Duplicate Payment	9 <table border="1"><tr><td>5</td><td>0</td><td>--</td><td>0</td><td>5</td><td>2</td><td>5</td></tr></table>			5	0	--	0	5	2	5
5	0	--	0	5	2	5					
<input checked="" type="checkbox"/>	No Fee Due (Explanation):										
<u>Ext not necessary</u>											
11 REFUND REQUESTED BY:											
TYPED/PRINTED NAME: <u>E-Tanner</u>		TITLE: <u>Pat Atty</u>									
SIGNATURE: <u>[Signature]</u>		PHONE: <u>306-9200</u>									
OFFICE: <u>4200</u>											
***** THIS SPACE RESERVED FOR FINANCE USE ONLY: *****											
APPROVED: <u>[Signature]</u>		DATE: <u>2/12/04</u>									

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file (and mail or hand-carry to: